



8011-01P
SECURITIES AND EXCHANGE COMMISSION
[SEC File No. S7-13-12, OMB Control No. 3235-0698]
Submission for OMB Review; Comment Request

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Securities and Exchange Commission
Office of FOIA Services
100 F Street, NE
Washington, DC 20549-2736

Extension: Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Portfolio Margining of Swaps and Security-Based Swaps

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the existing collection of information provided for in the Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 (“Exchange Act”) in Connection with Portfolio Margining of Swaps and Security-Based Swaps, Exchange Act Release No. 68433 (Dec. 14, 2012), 77 FR 75211 (Dec. 19, 2012) (“Order”).

On December 14, 2012, the Commission found it necessary or appropriate in the public interest and consistent with the protection of investors to grant the conditional exemptions discussed in the Order. Among other things, the Order requires dually-registered broker-dealer and futures commission merchants (“BD/FCMs”) that elect to offer a program to commingle and portfolio margin customer positions in credit default swaps (“CDS”) in customer accounts maintained in accordance with Section 4d(f) of the Commodity Exchange Act (“CEA”) and rules thereunder, to obtain certain agreements and opinions from its customers regarding the applicable regulatory regime, and to make certain disclosures to its customers before receiving any money, securities, or property of a customer to margin, guarantee, or secure positions

consisting of cleared CDS, which include both swaps and security-based swaps, under a program to commingle and portfolio margin CDS. The Order also requires BD/FCMs that elect to offer a program to commingle and portfolio margin CDS positions in customer accounts maintained in accordance with Section 4d(f) of the CEA and rules thereunder, to maintain minimum margin levels using a margin methodology approved by the Commission or the Commission staff.

The Commission estimates that 35 firms may seek to avail themselves of the conditional exemptive relief provided by the Order and therefore would be subject to the information collection. The Commission bases this estimate on the total number of entities that are dually registered as broker-dealers and futures commission merchants.

The Commission estimates that the aggregate annual time burden for all of the 35 respondents is approximately 22,517 hours calculated as follows:

(a) Based on information that the Commission receives on a monthly basis, the Commission estimates that each respondent will have, on average, 34 non-affiliate credit default swap customers. The Commission further estimates for each such customer, a respondent will spend approximately 20 hours developing a non-conforming subordination agreement under paragraph IV(b)(1)(ii) of the Order. The Commission therefore estimates that the burden associated with entering into non-conforming subordination agreements with non-affiliate cleared credit default swap customers under paragraph IV(b)(1)(ii) of the Order will impose an initial, one-time average burden of 680 hours (34 non-affiliate customers times 20 hours per customer) per respondent and an aggregate burden of 23,800 hours for all 35 respondents (680 x 35). This burden is a third-party disclosure burden.

(b) The Commission estimates that each respondent will have, on average, 11 affiliate credit default swap customers and that for each such customer, a respondent will spend approximately 20 hours developing a non-conforming subordination agreement under paragraph IV(b)(2)(ii) of the Order. The Commission therefore estimates that the burden associated with entering into non-conforming subordination agreements with affiliate cleared credit default swap customers under paragraph IV(b)(2)(ii) of the Order will impose an initial, one-time burden of 220 hours per respondent (11 affiliate customers times 20 hours per customer) and an aggregate burden of 7,700 hours for all 35 respondents (220 x 35) . This burden is a third-party disclosure burden.

(c) The Commission estimates that for each affiliate cleared credit default swap customer a respondent will spend approximately 2 hours developing and reviewing the required opinion of counsel under paragraph IV(b)(2)(iii) of the Order. The Commission therefore estimates that the burden associated with obtaining opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order will impose an initial, one-time burden of 22 hours per respondent (11 affiliate customers times 2 hours per customer) and an aggregate burden for all 35 respondents of 770 hours (22 x 35). This burden is a third-party disclosure burden.

(d) The Commission estimates that the burden associated with seeking the Commission's approval of margin methodologies under paragraph IV(b)(3) of the Order will impose an initial, one-time burden of 1,000 hours per respondent and an aggregate burden for all 35 respondents of 35,000 hours (1,000 x 35) . This burden is a reporting burden.

(e) The Commission estimates that the burden associated with disclosing information to customers under paragraph IV(b)(6) of the Order will impose an initial, one-time burden of 8 hours per respondent and an aggregate burden for all 35 respondents of 280 hours (8 x 35). This burden is a third-party disclosure burden.

The total aggregate one-time burden for all 35 respondents is thus 67,550 hours (32,550 third party disclosure + 35,000 reporting). Amortized over three years, the aggregate burden per year is approximately 22,517 hours.

The Commission estimates that each respondent will incur a one-time cost of \$8,000 in outside legal counsel expenses in connection with obtaining opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order, calculated as follows: (20 hours to obtain opinions of counsel from affiliate cleared credit default swap customers under paragraph IV(b)(2)(iii) of the Order) x (\$400 per hour for outside legal counsel) = \$8,000. The one-time aggregate burden for all 35 respondents is thus \$280,000 (8,000 x 35), or approximately \$93,333 per year when amortized over three years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: Lindsay.M.Abate@omb.eop.gov ; and (ii) Charles Riddle,

Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street, NE, Washington, DC 20549, or by sending an e-mail to:

PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 20, 2019.

Eduardo A. Aleman,
Deputy Secretary.

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